

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY

PRESENT: Hon. Paul Feinman (Acting Administrative Judge)
Administrative Order

AMERICAN MARITIME OFFICERS,

Plaintiff,

- v -

INDEX NO. 150069/09

OFFICERS DEFENSE SERVICE; THOMAS J.
MACKELL JR.; LEO ZEFERETTI; JOSEPH
LUCCA; ALVIN SIEGEL; ROBERT F.
MERCANDINO; and ALBERT SEEDMAN,

Defendants.

Administrative Order:

By letter dated August 14, 2009, plaintiff American Maritime Officers timely requests that this action be assigned to the Commercial Division. By letter dated August 18, 2009, defendants advise that they have no objection to a transfer. The action is presently pending in I.A.S. Part 15 (Tolub, J.).

Plaintiff's counsel contends that this action falls within the standards set out in Uniform Rule 202.70(b) (1) and (b) (7) for assignment to the Commercial Division, because this is an action for breach of contract and breach of fiduciary duties and also concerns the internal affairs of a business organization. While there is no question that the monetary threshold for New York County has been met since the complaint seeks damages in excess of \$340,000 (see Uniform Rule 202.70 [e]), I do not agree that this is a commercial dispute. Subdivision (b) (1) of Uniform Rule 202.70 includes actions in which the principal claims involve breach of contract or breach of fiduciary arising out of business dealings. This is not a business dispute, but a dispute between members of a merchant marine officers' union over the administration of a legal defense fund. Subdivision (b) (7) encompasses claims involving the internal affairs of business organizations, but defendant Officers Defense Service is an unincorporated not-for-profit membership organization.

For these reasons, plaintiff's request that this case be assigned to the Commercial Division is denied.

Dated: August 21, 2009

ENTER: , A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION